



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2016

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL

Writ Petition (MD). No.10346 of 2016

Raja Higher Secondary School,
rep. By its Secretary E.Ramkumar Raja
Ettayapuram,
Thoothukudi District.

... Petitioner

Vs.

1.The Government of Tamil Nadu,
rep. By its Secretary,
School Education Department
Fort St. George,
Chennai-600 009.

2.The Director of School Education,
D.P.I Campus,
College Road, Nungambakkam,
Chennai-600 006.

3.The Chief Educational Officer,
Thoothukudi,
Thoothukudi District.

... Respondents

Prayer:-Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.7876/A3/2016 dated 18.05.2016 quash the same and consequently direct the respondents to consider the petitioner's claim in terms of Sec.22 of the Private Schools Regulation Act 1974.

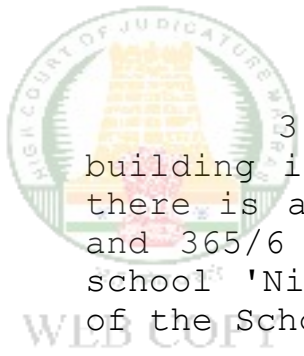
For Petitioner :Mrs.J.Nisha Banu

For Respondents :Mr.V.Muruganandham
Additional Govt. Pleader

O R D E R

Heard both sides.

2. By consent, the main writ petition itself is taken up for final disposal.



3. According to the petitioner/School, the school building is situated in 2 acres of land and abutting the school, there is an extent of 5 acres of land comprised in S.R.Nos.365/2 and 365/6 and this 5 acres of land stands in the name of the school 'Nirvagasthar', who is the Managing Trustee and Secretary of the School namely E.Ramkumar Raja.

4. The stand of the petitioner is that the property stands in the name of school 'Nirvagasthar' and not in the name of the school or the trust. This arrangement was specifically made by the ancestors to utilize the land for the welfare of the building and for the welfare of the school.

5. The grievance of the petitioner is that the school committee is not possessing adequate fund for providing education facility to the children, maintaining the building, providing potable drinking water and sanitary facility and the building is also in a dilapidated condition. As a matter of fact, School Committee, during the year 2009, decided to augment income for the maintenance of the school and decided to construct shops and lease out the shops and a resolution was passed by the school committee on 11.10.2009 and duly sent to the respondents for approval. Unfortunately, the third respondent, sent a letter to the Sub-Registrar, Ettaiyapuram that no document should be registered in respect of the afore mentioned lands, without even a notice to this petitioner and therefore, the petitioner filed a writ petition and obtained an order of interim stay in W.P.(MD). No.11516 of 2010.

6. At this stage, the Learned Counsel for the Petitioner submits that the 5 acres of land is not in the name of the school, but it is in the name of the School 'Nirvagasthar' and strictly speaking, the vacant area is not in the name of the school and even permission is not required to transfer the property for the welfare of the school, as per the ingredients of Rule 22 of the Tamil Nadu Private Schools (Regulation) Rules, 1974.

7. The Learned Counsel for the Petitioner/School urges before this Court that the funds are very much necessary for maintenance of the building as well as to develop the infrastructure of the building and as such, a resolution was passed by the School Committee to sell a portion of the land. In this connection, the clear cut plea of the petitioner is that the Chief Educational Officer is the proper authority to grant permission and therefore, the resolution together with the requisition seeking permission to sell the excess land to be utilized for the welfare and development of the school was sent as early as on 25.12.2015.

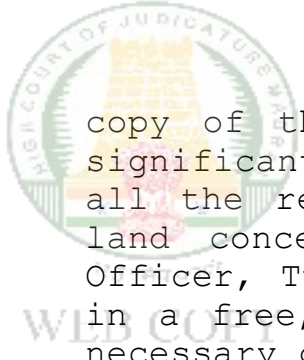
<https://hcservices.ecourts.gov.in/hcservices/>

8. Since the building requires immediate renovation and that the third respondent has not passed orders, the petitioner

directed by
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10. At this juncture, the Learned Counsel for the Petitioner brings it to the notice of this Court that Rule 22 of Tamil Nadu Recognized Private Schools (Regulation) Rules 1974 deals with 'Restriction of Transfer of Property of Private Schools' and Rule 22(b), in respect of High Schools, Higher Secondary Schools and Teachers' Training Institutes, speaks of the competent authority being the Chief Educational Officer. When the Rule 22(b) categorically speaks of the competent authority being the Chief Educational Officer, in respect of High Schools, Higher Secondary Schools and in the instant case, the petitioner's School being a Higher Secondary one, then, this Court is of the considered view that the impugned order of the third respondent, dated 18.05.2016, requiring the petitioner to submit the necessary application form to the second respondent/Director of School Education (through proper channel), is not quite in tune with Rule 22(b) of Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974. Therefore, this Court interferes with the said impugned order of the third respondent dated 18.05.2016 in the subject matter in issue and sets aside the same. Consequently, the writ petition succeeds.

<https://hcservicessources.gov.ie/ssenices/>



copy of this order. It is needless for this Court to make a significant mention that the petitioner/school shall comply with all the requisite requirements in regard to the sale of school land concerned before the third respondent/Chief Educational Officer, Tuticorin, who in turn, is directed to consider the same in a free, fair, unbiased and dispassionate manner and to pass necessary orders, in accordance with Law. No costs.

Sd/
Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

1.The Secretary,
Government of Tamil Nadu,
School Education Department
Fort St. George, Chennai-600 009.

2.The Director of School Education,
D.P.I Campus,
College Road, Nungambakkam,
Chennai-600 006.

3.The Chief Educational Officer,
Thoothukudi, Thoothukudi District.

+1cc to Special Government Pleader in SR.No.30156
+1cc to M/s.M.VeilkaniRaju in SR.No.30274

SDR/SK-SKN/SAR I/17.06.2016/4P/6C

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